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18/10/06

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH**

MISCELLANEOUS APPEAL NO. -

487

**Single Bench**  
OF 2006

(MEMORANDUM OF APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLES ACT, 1988)

**APPELLANT**  
**NON APPLICANT**

Foolchand Sethiya, S/o Kiratmal Sethiya  
R/o- Jawahar Nagar, Near Sitaram Mandir,  
Raipur, District - Raipur (C.G.)

**VERSUS**

**RESPONDENTS**  
**CLAIMANTS**

1. Manbati W/o Late Laxmana, aged about 55 years, caste- Kalar
2. Rainuram S/o Late Laxmana, caste Kalar, aged about 23 years.

Both R/o- Ghotpal, Kalar Para, District -  
Dantewada (C.G.)

**NON APPLICANTS**  
**NON-CLAIMANTS**

1. Parasmal Duggad, S/o Late Lunkaram Duggad, aged about 46 years, R/o- Main Road, Geedam, District- Dantewada (C.G.)

(Driver of Vehicle bearing registration No. MP 23/B-1871)

2. Omitted on 06-05-2005

3. Mahaveer Jain, S/o Nemichand Jain, aged about 25 years, R/o- Geedam, District- South Baster Dantewada (C.G.)

(Owner of Vehicle bearing registration No. MP 25/6771)

4. Chaitan Das S/o Baldev Das, R/o Geedam, Tehsil & District- Dantewada (C.G.)

(Driver of Vehicle bearing registration No. MP 25/6771)

5. Omitted on 06-05-2005

6. Seebantari W/o Late Ramlu, aged about 24 years, Resident of - Aadwada Pondum, Post -Bhairamgarh, District- South Baster Dantwada (C.G.)

P.R. No. 703/06  
Presented by Shri S. Pandey  
dated 22/10/06

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**MEMORANDUM OF APPEAL UNDER SECTION 173 OF THE MOTOR  
VEHICLES ACT, 1988**

Appeal Value at - Rs. 25,000/- 23

आदेश पत्रक

सामला क्रमांक

M.A. No.

सन् 200

487/06

विरुद्ध

| आदेश का<br>दिनांक आदेश<br>क्रमांक सहित | आदेश हस्ताक्षर सहित                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार<br>के अन्तिम आदेश |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
|                                        | <p><b><u>18/04/2006</u></b></p> <p>Shri S. Pandya, Counsel for the appellant.<br/>None for the respondent.<br/>Heard on admission and on M.C.P.No.616/2006.<br/>On 17/05/1999 accident took place. Metador No. 23-B 1871 and MP 25/6771 collided together. Rayalu Ram sustained injuries and succumbed to the injuries. His legal representatives filed application for grant of compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, "the Act"). They also filed an application under Section 140 of the Act for interim award. Learned Tribunal after taking into account the documents available on record held owners of both the vehicles jointly liable for paying interim compensation to claimants and accordingly passed an interim award.</p> <p>Learned counsel for the appellant contended that the appellant was registered owner of Metador No.23-B 1871 who in the year 1983 sold the vehicle to Suganchan Bafna, who thereafter sold it to Parasmal Duggar, therefore, on the date of accident appellant was not owner of the vehicle, as such no liability can be fastened on him.</p> |                                                           |

[पीछे देखिये]

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

| आदेश का<br>दिनांक आदेश<br>क्रमांक सहित | आदेश हस्ताक्षर सहित                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार<br>के अन्तिम आदेश |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
|                                        | <p>Under Section 2 (30) of the Act, owner has been defined which reads as below:</p> <p><b>"2(30).- "owner" means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement."</b></p> <p>Admittedly, the vehicle is registered in the name of the appellant and yet his name is being continued as registered owner. Therefore, in accordance with the provisions of the Act, prima facie, appellant is the owner. Under Section 140 of the Act, liability is to be fastened on the owner of the vehicle. Rule 227 of the Motor Vehicles Rules, 1994 prescribes the procedure for disposal of the application for grant of interim award.</p> <p>Prima facie, when the appellant is the owner of the vehicle which caused accident as a result of which Rayalu Ram died, therefore, under Section 140 of the Act, he cannot escape his liability to pay the compensation till it is proved by evidence that he was not the owner of the vehicle.</p> |                                                           |

[पीछे देखिये]

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

## आदेश पत्रक

मामला क्रमांक ..... सन् 200

विरुद्ध .....

| आदेश का<br>दिनांक आदेश<br>क्रमांक सहित | आदेश हस्ताक्षर सहित<br>- 3 -                                                                                                                                                                                                                                                                                                           | कार्यालयीन मामलों में ड्यूटी रजिस्ट्रार<br>के अन्तिम आदेश |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| Raju                                   | <p>In my opinion the impugned order passed by the learned Tribunal does not suffer from any such infirmity which may call interference by this Court.</p> <p>In the result, the appeal is liable to be dismissed summarily and is accordingly dismissed.</p> <p>In the light of above order, M.C.P.No.616/2006 stands disposed of.</p> | <p>Sd/-<br/>V.K.Shrivastava<br/>Judge</p>                 |

[पीछे देखिये]

48.4.06